

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARRELL SIGGERS,

Plaintiff,

v.

ELLEN M. CAMPBELL, *ET AL.*,

Defendants.

Case Number: 07-12495

HON. MARIANNE O. BATTANI

**ORDER CONCURRING IN THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

Before the Court are Plaintiff's Objections to Magistrate Judge Paul J. Komives' Report and Recommendation regarding Plaintiff's motion to transfer the case to the judge in Case No. 01-72729, an earlier suit by Plaintiff. (Docs. 25, 27, 32). The Magistrate Judge determined that the present case is not a companion case to the earlier case based on, among other things, its finding that the Defendants in the present case work at a different correctional facility than did the Defendant in Case No. 01-72729. In particular, the Magistrate Judge stated that the Defendants in the present case are identified as employees at Muskegon Correctional Facility, whereas the Defendant in Case No. 01-72729 was an employee of Mound Correctional Facility. Plaintiff objects that this is erroneous and that the Defendants in both cases are employees of Mound Correctional Facility. Therefore, Plaintiff contends that the cases are companion cases.

Under E.D. Mich. LR 83.11(b)(7),

- (a) Companion cases are those cases in which it appears that:
 - (i) substantially similar evidence will be offered at trial, or
 - (ii) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.

. . .

- (c) When it becomes apparent to the Judge to whom a case is assigned and to a Judge having an earlier case number that two cases are companion cases, upon consent of the Judge having the earlier case number, the Judge shall sign an order reassigning the case to the Judge having the earlier case number.

A review of the pleadings in this case indicates that Plaintiff is correct when he asserts that, like the Defendant in Case No. 01-72729, the Defendants in the present case are employees of Mound Correctional Facility. Nevertheless, the two cases are not companion cases because the present case arises from conduct that occurred well after the conduct that gave rise to the earlier case. See E.D. Mich. LR 83.11(b)(7)(a)(ii). As such, the present case also would require substantially different evidence than was offered in Plaintiff's earlier case. See E.D. Mich. LR 83.11(b)(7)(a)(i). Accordingly, Plaintiff's motion to transfer the case to a different judge is **DENIED**.

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

Dated: September 17, 2008

CERTIFICATE OF SERVICE

Copies of this Order were served upon Plaintiff and counsel of record on this date by ordinary mail and/or electronic filing.

s/Bernadette M. Thebolt
Deputy Clerk